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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

N.Z., R.M., B.L., S.M., and A.L.,
individually and on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

FENIX INTERNATIONAL LIMITED,
FENIX INTERNET LLC, BOSS
BADDIES LLC, MOXY
MANAGEMENT, UNRULY AGENCY
LLC (also d/b/a DYSRPT AGENCY),
BEHAVE AGENCY LLC, A.S.H.
AGENCY, CONTENT X, INC., VERGE
AGENCY, INC., AND ELITE
CREATORS LLC,

Defendants.

Case No. 8:24-cv-01655-FWS-SSC
Hon. Fred W. Slaughter

**DECLARATION OF ROBERT B.
CAREY IN SUPPORT OF
PLAINTIFFS' MOTION
CONTINUANCE OF HEARING**

Judge: Hon. Fred W. Slaughter
Courtroom: 10D
Date: September 25, 2025
Time: 10:00 a.m.

1 I, Robert B. Carey, hereby declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of the
3 State of Arizona, and I have been admitted pro hac vice in this Court. I am a partner
4 at Hagens Berman Sobol Shapiro LLP, and have appeared in this case as one of the
5 counsel of record for Plaintiffs in the above-entitled action. I have personal
6 knowledge of the matters stated herein and, if called upon, I could and would
7 competently testify thereto.

8 2. I submit this declaration on behalf of Plaintiffs in support of Plaintiffs'
9 Motion for Continuance of Hearing ("Motion"), and to provide the reasons for the
10 requested continuance.

11 3. There has been one previous stipulation filed by the parties to continue
12 the hearing date regarding the Fenix Defendants' Motion for Reconsideration. The
13 Court granted the parties' stipulation. ECF No. 151.

14 4. There has been one previous stipulation filed by the parties to continue
15 the hearing date regarding the Defendants' Motions to Dismiss. The Court granted
16 the parties' stipulation. ECF No. 133.

17 5. On July 17, 2025, Plaintiffs filed their Response in Opposition to
18 Defendants' Motion to Strike Claims of Non-California Defendants and Fenix
19 Defendants' Motion for Request for Judicial Notice (ECF No. 138) ("Response to
20 the RFJN"); their Response in Opposition to Fenix International Limited's and
21 Fenix Internet LLC's Motion to Dismiss for Lack of Personal Jurisdiction, Failure
22 to State a Claim, and Improper Venue (ECF No. 141) ("Response to the Fenix
23 MTD"); and their Consolidated Response in Opposition to the Agency Defendants'
24 Motions to Dismiss the First Amended Complaint (ECF No. 142) ("Response to the
25 Agencies' MTDs").

26 6. On August 11, 2025, Plaintiffs filed their Response in Opposition to
27 Fenix International Limited's and Fenix Internet LLC's Motion for Partial
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1 Reconsideration or Alternatively Certification of an Interlocutory Appeal (ECF No.
2 158) (“Response to the Motion for Reconsideration”).

3 7. On August 18, 2025, the Fenix Defendants filed their replies and
4 supporting declarations, which alerted Plaintiffs’ counsel to the fact that there were
5 hallucinated citations and parentheticals in Plaintiffs’ response briefs.

6 8. On August 19, 2025, Plaintiffs’ counsel contacted counsel for the
7 Fenix Defendants to request a meet and confer.

8 9. Plaintiffs’ counsel met with Fenix’s counsel on August 20, 2025, via
9 Zoom, to discuss the AI-generated content, Plaintiffs’ plan to seek leave to file
10 corrective briefing, and a continuance of the upcoming hearing scheduled for
11 September 4, 2025. The Fenix Defendants opposed Plaintiffs’ efforts to continue
12 the hearing, and stated that they would oppose any motion filed by Plaintiffs
13 seeking leave to file corrective briefing.

14 10. Upon reaching impasse, Plaintiffs prepared and filed a Notice of Intent
15 to Seek Leave to File Corrective Briefs regarding ECF Nos. 138, 141, and 158
16 (“Notice”) (ECF No. 175) on August 21, 2025. At that time, Plaintiffs were not
17 aware that they would also need to seek leave to file corrective briefing regarding
18 ECF No. 142.

19 11. After the Zoom conference, Plaintiffs by rule had to wait 7 days before
20 being allowed to file their Motion under Local Rule 7-3.

21 12. On August 28, 2025, Plaintiffs filed a Motion for Leave to Withdraw
22 ECF Nos. 138, 141, 142, 158, and File Corrective Briefing (“Corrective Briefing
23 Motion”) (ECF No. 176).

24 13. These briefs contained AI-generated content.

25 14. I was not aware that AI was used in the briefing until August 18, 2025,
26 and failed to identify the use of AI in the briefs before they were filed.

27 15. I do not use AI for legal writing or legal research, nor does anyone in
28 my office, where the firm policy prohibits such use.

1 16. I was immersed in the development and drafting of the briefs, and,
2 once advised that some citations to the First Amended Complaint were inaccurate, I
3 spot cite-checked cases on July 17, to ensure that there were no “fake” cases.

4 17. I take full responsibility for the errors, and I engaged in the following
5 acts after learning of the AI-generated content in the briefs: (1) an investigation as
6 to how and why AI was used in the briefs, (2) how and why internal review policies
7 and procedures failed to catch the use of AI in the briefs, (3) began the process of
8 updating internal policies and procedures to ensure that similar incidents do not
9 occur in the future, and (4) improve the education of firm personnel on the risks of
10 using AI and the implementation and proper use of procedures to identify improper
11 use of AI.

12 18. Under my direction, Hagens Berman also prepared corrective briefs
13 that: (1) removed erroneous cases and their accompanying arguments; (2) corrected
14 quotations or parentheticals that were inaccurate due to the use of AI, but the case
15 otherwise stood for the cited propositions; (3) removed erroneous record cites or
16 summaries of the record; and (4) performed a full cite check and corrected any
17 other minor citation errors.

18 19. Plaintiffs did not add additional arguments or case law to the
19 corrective briefs that was not already before the Court.

20 20. The Corrective Briefing Motion seeks leave to (1) correct any citations
21 that were miscited, (2) delete citations and arguments that do not support the
22 proposition stated, (3) delete any erroneous record cites and arguments, and (4)
23 correct any other miscellaneous errors in the legal citations that occurred because of
24 the use of AI.

25 21. Plaintiffs are not seeking leave to add new arguments.

26 22. Once notified, we immediately began investigating what had occurred
27 and started the process of seeking leave to file corrective briefs.
28

1 23. We also prepared a request for continuance and notified the Court on
2 August 27, 2025, that we would be filing it, the first day we could file it under the
3 Local Rules.

4 24. The Court's deputy responded the following day and instructed
5 undersigned counsel to "e-file the appropriate request/application/motion/petition
6 and a proposed order in CM/ECF for the court's consideration."

7 25. We worked diligently on correcting the briefs and preparing Plaintiffs'
8 Corrective Briefing Motion.

9 26. I tasked Michella Kras, with the assistance of an associate at the firm,
10 Tory Beardsley, with reviewing the affected briefs in detail, identifying mistakes,
11 and fixing mistakes with the least amount of prejudice to Defendants. I also
12 participated in and supervised this process. This was a time-consuming process
13 given the length of the briefs and the importance of reviewing every case cited in
14 almost 100 pages of briefing.

15 27. Ms. Kras was also tasked with drafting the Corrective Briefing
16 Motion, a fact intensive motion that required an understanding of what was wrong
17 with the briefing, how the firm could fix it, and investigating how the mistakes
18 occurred.

19 28. At the same time, I was working with co-counsel to determine what
20 work each person performed and how AI-generated content made it into the
21 briefing.

22 29. To complicate matters, the attorney who turned out to be responsible
23 for writing the briefs containing AI generated content was dealing with the decline
24 and mid-August death of her father, which—in addition to affecting her work, as
25 noted in our Corrective Briefing Motion—has affected her mental health and made
26 it difficult for her to provide the required information about how she used AI and
27 what caused the mistakes. In fact, she was still out of town at her father's funeral
28 when asked to recreate what she had done.

1 30. Ms. Kras and I worked diligently with Ms. Boyd—providing specific
2 examples of what errors to focus on—so that she could provide a declaration to the
3 Court. Despite our best efforts, we did not receive a completed declaration from
4 Ms. Boyd until just past 11:00 p.m. on August 27, the day we intended on filing the
5 Corrective Briefing Motion, delaying the filing by a day.

6 31. Because of the time it took to investigate and file the Motion for Leave
7 to File Corrective Briefs, neither I nor my team have been able to properly prepare
8 for the hearing, a task further complicated because undersigned counsel is—except
9 for critical wind-down work that only she can provide given her role from the
10 case’s inception, including an eight-month investigation—concluding its
11 professional relationship with Ms. Boyd, who otherwise would have been an
12 integral member of the argument-preparation team and essential for the September
13 4 hearing.

14 32. The parties are actively engaged in discovery on the very issues raised
15 in the Motion to Dismiss.

16 33. Plaintiffs served discovery on the Fenix Defendants on May 5, 2025,
17 and July 29, 2025. After receiving Plaintiffs’ discovery request on May 5, 2025, the
18 Fenix Defendants objected to full discovery but agreed to provide materials related
19 to jurisdictional issues. Plaintiffs and the Fenix Defendants, however, disagreed on
20 exactly what needed to be produced.

21 34. An IDC was held before Judge Christensen on August 7, 2025.
22 Following the IDC, the Fenix Defendants agreed to produce additional discovery
23 related to the jurisdictional issues raised in the Motion to Dismiss. The parties also
24 agreed to consider whether a deposition of a 30(b)(6) witness would be necessary
25 after reviewing the documents. Notably, the deposition was noticed well in advance
26 of the hearing, but the parties agreed to table the deposition pending the production
27 and review of documents. Defendants said they “could likely provide some of the
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1 [documents] by the 27th, and likely all of it by Labor Day.” Nothing has been
2 produced.

3 35. Similarly, the Agency Defendants refused to engage in discovery at
4 all—granting themselves a stay from the Court’s discovery order until resolution of
5 the motions to dismiss. Only after learning of Judge Christensen’s statements at the
6 IDC did the Agency Defendants finally agree to substantively respond to discovery.
7 Most Agency Defendants agreed to “substantively respond” to discovery between
8 August 13–18, 2025, months after Plaintiffs first served discovery requests on them
9 on May 5, 2025.

10 36. In short, the parties are engaged in active discovery—including
11 discovery related to the motions currently scheduled to be heard on September 4,
12 2025.

13 37. Defendants oppose the motion for continuance, claiming that it would
14 be improper to further delay the resolution of the various motions.

15 I declare under penalty of perjury under the laws of the United States that the
16 foregoing is true and correct.

17 Executed this 28th day of August, 2025, in Phoenix, Arizona.

18 HAGENS BERMAN SOBOL SHAPIRO LLP

19 By /s/ Robert B. Carey

20 Robert B. Carey
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